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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/686,641	10/10/2000	Parul A. Mittal	JP920000234US1	5887

7590 10/21/2004

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EXAMINER	
CARLSON, JEFFREY D	
ART UNIT	**PAPER NUMBER**
3622	

DATE MAILED: 10/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/686,641	MITTAL ET AL.	
	Examiner	Art Unit	
	Jeffrey D. Carlson	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 June 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-61* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-61* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

This action is responsive to the paper(s) filed 6/28/04.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-18, 20-37, 39-56, 58-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeny, Jr (US6513016) in view of Godin et al (US5890138).

Regarding claim 1, 4-6, 18, 58-61, Freeny, Jr teaches a computerized system that monitors sales, demand and inventory supply and dynamically adjusts pricing. The system enables advertising/promotional pricing using coupons that can be printed for customers and redeemed. The coupon system generates coupons that are dynamically priced as determined by the system [abstract, 4:4-11, 6:32-37, 7:35-37, 11:16-27]. The coupon system is taken to be electronic as the coupon data is stored on the computer and can be electronically changed. Further, the coupons include UPC codes which are electronically scanned upon redemption. While Freeny, Jr teaches several data inputs to the price determination system, he does not teach the use of auction data. Godin et al teaches an online computer auction system which is used to sell goods. Godin et al teaches that a feature of the auctions is the ability to track the price/demand nature of the product. This provides valuable information to the manufacturer. Instead of detailed

testing, businesses can use auction data to determine price and demand information for specified products and a price demand curve can be created [7:60-8:5]. It would have been obvious to one of ordinary skill at the time of the invention to have looked to any source of pricing/demand data as an input to the system of Freeny, Jr, including the auction-based data of Godin et al in order to create promotional pricing based upon a rich collection of price/demand data thereby creating more effective promotional pricing. Regarding the auction-related parameters comprising "non-quantitative attributes," Godin et al teaches the collection and storage of user data such as name, address, city, province, postal code, email address, telephone. This data is used in the online auction process. Each of these is taken to be a "non-quantitative attribute of a bidder." While postal code and telephone fields each comprise numeric digits, the data is numeric code representing qualitative information such as the general area of location (area code) or more specific area of location (postal code). Area codes and postal codes are often classified as demographic data and taken to be qualitative. Even though this data is stored using digits, the information is not quantitative and it would never be used in arithmetic calculations as quantitative values (such as price, tax rates, etc) would be. Nonetheless, a person's name is clearly non-quantitative and represents a cultural attribute of that person. A person's city is non-quantitative and represents a cultural attribute of that person. Culture is such a broad term that any characteristic can be used to define a "culture"; the types of people using American Express cards can be said to belong to a credit card culture different than Visa card holders. The type of credit card is non-quantitative data. The "for getting market information" language is

taken to be functional language and intended use and does not provide a positive limitation. Nonetheless, the combination provides an auction process and system for getting market information (price/demand data) so that promotional pricing can be dynamically created in the form of coupons. Regarding claim 18, selecting and providing the suggested auction-data input to the computerized pricing system functionality in order to output pricing decision and actions is taken to allow a user to "configure" the data sources. The user implementing/building/programming the system of Godin et al determines which bidder data fields are required to use the auction system. Regarding claim 58, the system is taken to inherently "learn" about online markets by mining information from current and past operations of similar online markets. Regarding claim 59, Freeny, Jr teaches that the system monitors inventory levels and can adjust pricing accordingly. This is taken to provide optimal inventory management. Regarding claims 60, the proposed combination provides an online electronic coupon generation system. Regarding claim 61, it would have been obvious to one of ordinary skill at the time of the invention to have sold the marketing research to other firms so that they may use the same techniques to price, promote and sell their products.

Regarding claim 2, 3, 17, it would have been obvious to one of ordinary skill at the time of the invention to have electronically captured valuable auction data input for any well known auction types (such as Dutch auction, reverse auction, etc), so as to base pricing on a wide range of data in an automated manner.

Regarding claim 7, 9, 14-16, the demand curves taught by Freeny, Jr inherently provide price elasticity based on the results of the auctions for a plurality of products and a plurality of quantities. Official Notice is taken that it is well known to estimate demand curves in such a manner and it would have been obvious to one of ordinary skill at the time of the invention to have done so in order to model the price/demand data and determine an optimized promotion pricing. Regarding claim 16, a price demand curve inherently associates quantities demanded and price, for a collection of individual buyers.

Regarding claim 8, promotion coupon and advertising campaigns typically include such claimed parameters and it would have been obvious to one of ordinary skill at the time of the invention to have provided them in order to provide an effective promotion.

Regarding claim 10, 11, 13, Official Notice is taken that providing promotion pricing to encourage switching from a competitors product, and cross-selling and up-selling are well known marketing techniques; such would have been obvious to have employed in order to accomplish sales.

Regarding claim 12, plural auctions for different products can inherently define different segments based on the product type. A marketer could define segments in any imaginable way for a plurality of products.

Claims 21-38 and 39-57 are each rejected following the same reasoning as per claims 1-19 above.

Claims 19, 38, 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeny, Jr in view of Godin et al and Schulze, Jr (US6497360). Schulze, Jr teaches an electronic coupon promotional system where the coupon output is used as an input to the coupon system in order to provide a feedback loop to improve the system [abstract]. It would have been obvious to one of ordinary skill at the time of the invention to have fed back the results of the coupon system of Freeny, Jr/Godin et al as a closed loop system in order to improve results and provide a system that "learns."

Response to Arguments

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, one of ordinary skill would have found it obvious to have combined the teachings as detailed above.

Applicant argues that Godin et al does not teach non-quantitative attributes comprising cultural attributes of bidders. This limitation is present in Godin et al as detailed above. Applicant argues further that none of the bidder attributes are used to

provide targeted advertising. Applicant's claims require the non-quantitative attributes to be used when conducting auctions. The "for getting market information" language is taken to be functional language and intended use and does not provide a positive limitation. Nonetheless, the combination provides an auction process and system for getting market information (price/demand data) so that promotional pricing can be dynamically created in the form of coupons. There is no linkage in the claims between the bidder attributes and the generated coupons, although applicant appear to argue such a requirement.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey D. Carlson whose telephone number is 703-308-3402. The examiner can normally be reached on Mon-Fri 8:30-6p, (off on alternate Fridays).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on 703-305-8469. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jeffrey D. Carlson
Primary Examiner
Art Unit 3622

jdc